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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

WILLIAM COLE, Derivatively on Behalf of)	Case No. 3:12-cv-03367-MMC
FACEBOOK, INC.,)	
Plaintiff,)	STIPULATION AND PROPOSED ORDER
v.)	REGARDING HEARING DATES
Judge:)	Honorable Maxine M. Chesney
MARK ZUCKERBERG, DAVID A.)	
EBERSMAN, SHERYL K. SANDBERG,)	
DAVID M. SPILLANE, PETER A. THIEL,)	
JAMES W. BREYER, MARC L.)	
ANDREESSEN, DONALD E. GRAHAM,)	
REED HASTINGS, ERSKINE B.)	
BOWLES, and DOES 1-25, Inclusive,)	
Defendants,)	
-and-)	
FACEBOOK, INC., a Delaware corporation,)	
Nominal Defendant.)	

1 WHEREAS the *Hubuschman* Action¹ was originally filed in the Superior Court of
 2 California, San Mateo County (the "State Court") on June 28, 2012, and the *Cole* Action² was
 3 originally filed in the State Court on May 31, 2012 (collectively, the "Derivative Actions");

4 WHEREAS on June 28, 2012, Defendants³ removed the Derivative Actions to this Court;

5 WHEREAS on July 13, 2012, Defendants filed Motions for Stay of Proceedings Pending
 6 Decision on Transfer by the Judicial Panel on Multidistrict Litigation (the "Stay Motions") in the
 7 Derivative Actions, and the hearings on the Stay Motions are set for August 17, 2012, at 9:00
 8 a.m.;

10 WHEREAS plaintiffs Hal Hubuschman and William Cole ("Plaintiffs") believe that
 11 removal of the Derivative Actions was improper and will timely file motions to remand the
 12 Derivative Actions to State Court (the "Remand Motions") on or before August 1, 2012, in
 13 accordance with 28 U.S.C. §1447(c);

15 WHEREAS Plaintiffs intend to notice the Remand Motions for a September 7, 2012
 16 hearing date;

17 WHEREAS the parties to the Derivative Actions agree that the interests of efficiency and
 18 judicial economy will best be served by having the Stay Motions and Remand Motions heard at
 19 the same time;

22 ¹ "*Hubuschman* Action" refers to the action captioned *Hubuschman v. Zuckerberg, et al.*, Case
 23 No. 12-cv-03366-MMC.

24 ² "*Cole* Action" refers to the action captioned *Cole v. Zuckerberg, et al.*, Case No. 12-cv-03367-
 25 MMC.

26 ³ "Defendants" refers to: Nominal defendant Facebook, Inc., Mark Zuckerberg, David A.
 27 Ebersman, Sheryl K. Sandberg, David M. Spillane, Peter A. Thiel, James W. Breyer, Marc L.
 Andreessen, Donald E. Graham, Reed Hastings, and Erskine B. Bowles.

1 WHEREAS Defendants, therefore, intend to re-notice the hearing on the Stay Motions
2 for a September 7, 2012 hearing date;

3 WHEREAS in light of the above, the parties shortly will agree to briefing schedules for
4 the Stay Motions and the Remand Motions which they will submit to the Court.

5 WHEREAS the parties to the Derivative Actions have not previously requested an
6 extension of any deadlines to file briefs in opposition to or in support of the Stay Motions;
7

8 WHEREAS nothing in this stipulation prevents any party from seeking further extensions
9 on the consent of the other parties or from the Court;

10 WHEREAS in light of the agreement to re-notice the hearing on the Stay Motions,
11 Plaintiffs' obligation to file oppositions to the Stay Motions, otherwise due on July 27, 2012, is
12 held in abeyance until the parties submit their agreed briefing schedule; and
13

14 WHEREAS in the event that the Court determines not to enter an order consistent with
15 this stipulation, Defendants agree that, in view of Plaintiffs' reliance on this stipulation and
16 proposed order, Defendants shall not assert in any motion, brief, or proceeding that Plaintiffs
17 failed timely to file their briefs in opposition to the Stay Motions. In that event, the parties to the
18 Derivative Actions shall meet and confer regarding an alternative scheduling stipulation
19 consistent with the Court's determination.
20

21 Respectfully submitted,

22 Dated: July 26, 2012

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26 /s/Shane P. Sanders

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Dated: July 26, 2012

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I, Shane P. Sanders, am the ECF user whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER REGARDING HEARING DATES. In compliance with General Order 45, X.B., I hereby attest that James F. Basile has concurred in this filing.

*** * * ORDER * * ***

PURSUANT TO STIPULATION, IT IS SO ORDERED. Plaintiff need not file an opposition to defendants' pending Motion for Stay until the date set pursuant to further court order adopting a revised briefing schedule.

July 27, 2012

DATED


HONORABLE MAXINE M. CHESNEY
U.S. DISTRICT JUDGE

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